

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RUSS CAPPELLO,

Plaintiff,

VS.

FIRST NATIONAL OF NEBRASKA, INC.,

Defendant.

8:06CV596

ORDER TO SHOW CAUSE

This matter is before the court *sua sponte* and pursuant to NECivR 41.1, which states in pertinent part: “The court may at any time dismiss an action for lack of prosecution when it appears it is not being prosecuted with reasonable diligence.” Further, Fed. R. Civ. P. 4(m) establishes the following time limit for service of process on the defendant in a civil case:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

In this case the complaint was filed on September 18, 2006. **See** Filing No. 1. Accordingly, the deadline for service of process expired **on or about January 16, 2007**. The record shows that no summons has been issued and there is no proof of service of process on the defendant. Upon consideration,

IT IS ORDERED:

The plaintiff shall show cause why this case should not be dismissed as against the defendant for failure to effect service. The showing of cause shall be filed electronically on or before the close of business **on March 22, 2007**.

Dated this 8th day of March, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge